

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

MARIO A. VALENZUELA,

Plaintiff,

v.

SANTIESTEBAN,

Defendant.

Case No. 1:20-cv-01093-NONE-BAM (PC)

**ORDER DISCHARGING ORDER TO SHOW
CAUSE REGARDING DEFENDANTS'
FAILURE TO COMPLY WITH COURT
ORDERS**

(ECF No. 43)

**ORDER RESETTING DEADLINE FOR
FILING OF STATUS REPORTS**

NINETY (90) DAY DEADLINE

Plaintiff Mario A. Valenzuela ("Plaintiff") is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Santiesteban, Rodriguez, and Alejo for excessive force in violation of the Eighth Amendment and against Defendant Perez for failure to protect in violation of the Eighth Amendment, arising from the incident on June 22, 2019.

On April 9, 2021, the Court granted Defendants' motion to stay this civil action until Plaintiff's criminal charges in Kings County Superior Court, case number 20CM-1621, arising from the same June 22, 2019 incident involved in this action, are resolved. (ECF No. 38.) Defendants were directed to file a status report within ninety (90) days from the date of service of that order, and every sixty (60) days thereafter, addressing the status of the criminal proceedings until they are resolved. (*Id.* at 6.) Defendants filed their first status report on July 8, 2021. (ECF

No. 41.) Defendants' second status report was therefore due on or before September 14, 2021.

Following Defendants' failure to file a status report as directed, the Court issued an order to show cause directing Defendants to file a second status report within seven days or a written response regarding their failure to do so. (ECF No. 43.)

On September 17, 2021, Defendants filed a status report and response to the order to show cause. (ECF No. 44.) Defendants indicate that Plaintiff's criminal case is ongoing and the next hearing in that matter is a trial setting conference and a *Pitchess* motion set for November 18, 2021. In addition, Plaintiff's court-appointed attorney in his criminal case has informed Defendants' counsel that Plaintiff's criminal matter will probably not be set for trial until sometime in 2022. Defendants indicate they will file a status report every sixty days after the date of the instant status report to address the status of Plaintiff's criminal proceedings until they are resolved. (*Id.*)

Based on the prompt filing of Defendants' status report, the Court will discharge the order to show cause. Further, in light of the ongoing continuances in Plaintiff's criminal proceedings, the Court finds it appropriate to extend the deadline for filing further status reports to every **ninety (90) days**, rather than every sixty days.

Accordingly, IT IS HEREBY ORDERED as follows:

1. The Court's September 16, 2021 order to show cause, (ECF No. 43), is HEREBY DISCHARGED;
2. Defendants are directed to file a status report **ninety (90) days** following the date of service of this order, and every **ninety (90) days** thereafter; and
3. This action remains stayed.

IT IS SO ORDERED.

Dated: September 20, 2021

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE